

Award No. 13044
Docket No. TE-11762

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

**THE ORDER OF RAILROAD TELEGRAPHERS
NORFOLK AND WESTERN RAILWAY COMPANY**

STATEMENT OF CLAIM: Claim of the General Committee of The Order of Railroad Telegraphers on the Norfolk and Western Railway that:

1. Carrier violated the agreement between the parties when on November 10, 1958, it required or permitted an employe not covered by the agreement to perform the work of wire testing at Richlands, Virginia at a time when the Agent-Telegrapher was off duty.
2. Carrier shall be required to compensate T. C. Owens, Agent-Telegrapher, Richlands, Virginia in the amount of a minimum call payment.

EMPLOYES' STATEMENT OF FACTS: The agreements between the parties are available to your Board and by this reference are made a part hereof.

Richlands, Virginia is a station on the Pocahontas Division of this Carrier. At the time cause for this claim arose, there was one position under the agreement at this station, Agent-Telegrapher, with assigned hours 10:00 A. M. to 7:00 P. M. (one hour meal period).

T. C. Owens was the regularly assigned occupant of the position. On Monday, November 10, 1958, at 8:00 A. M. some of the company telephone circuits were in trouble. The only station employe on duty at Richlands was Clerk Harman. The wire-chief located in "BF", telegraph office (Division Telegraph Office in Bluefield, West Va.) requested Clerk Harman on the telephone and requested him to make a test on the Dispatcher's telephone circuit in order to locate, and if possible, eliminate noise on that circuit. Harman was occupying the position under another agreement and holds no seniority or other rights under the Telegraphers' agreement.

There is a panel or "switchboard" located in the telegraph office with an arrangement of jacks, cords, plugs, and switches for the purpose of connecting the instruments in the office to the circuits, to make tests to determine the nature and direction of trouble on the circuits and to make con-

OPINION OF BOARD: At or about 8:00 A. M. on November 10, 1958 Carrier's Wire Chief, located in Bluefield, West Virginia, was experiencing difficulty in the operation of certain telephone lines. By telephone, he contacted the Clerk on duty at Richlands, Virginia and instructed him to insert "plugs" in the switchboard, located in Richlands Telegraph Office, for the purpose of testing reactions on the telephone lines. The Clerk performed the work as directed by the Wire Chief.

Claimant, who is the regular assigned Agent-Telegrapher at Richlands, was not on duty at the time, having assigned hours 10:00 A. M. to 7:00 P. M., but was available for call.

The Organization contends that requiring the Clerk to perform service assisting the Wire Chief in the testing and patching was an encroachment upon the work rights of Claimant, and that since he was readily available, he should have been called to perform the work.

The Carrier contends that the work was not exclusive to Telegraphers, and that for other reasons, the Agreement was not violated.

Review of the record submitted by the same parties in Docket TE-9063 shows that identical contentions were made by the respective parties. The Board issued Award 10967 (Dorsey) in that case, on December 17, 1962. We find no basis for distinguishing the disputes and hold, for reasons set forth in Award 10967, that claim should be sustained.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of November 1964.